

# HOUSE BILL 1095

C4

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By: **Delegate Rudolph**

Introduced and read first time: February 10, 2012

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Property and Casualty Insurance – Underwriting Period – Discovery of**  
3 **Material Risk Factor**

4 FOR the purpose of requiring an insurer that discovers a certain material risk factor  
5 during a certain underwriting period to recalculate the premium for a policy or  
6 binder of personal insurance, commercial property insurance, or commercial  
7 liability insurance under certain circumstances; requiring the insurer to provide  
8 certain notice to the insured if the insurer recalculates the premium for the  
9 policy or binder based on the discovery of a certain material risk factor;  
10 providing that certain provisions of law requiring insurers to send certain notice  
11 of a premium increase for a policy of private passenger motor vehicle liability  
12 insurance do not apply to an increase in premium made by an insurer during  
13 the underwriting period under certain circumstances; defining a certain term;  
14 making stylistic changes; providing for the application of this Act; and generally  
15 relating to the recalculation of the premium for a policy or binder of property  
16 and casualty insurance during the underwriting period.

17 BY repealing and reenacting, with amendments,  
18 Article – Insurance  
19 Section 12–106 and 27–614(b)  
20 Annotated Code of Maryland  
21 (2011 Replacement Volume)

22 BY repealing and reenacting, without amendments,  
23 Article – Insurance  
24 Section 27–614(a) and (c)(1) and (2)  
25 Annotated Code of Maryland  
26 (2011 Replacement Volume)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
28 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Insurance**

2 12–106.

3 [(a) In this section, “personal insurance” means property insurance or  
4 casualty insurance issued to an individual, trust, estate, or similar entity that is  
5 intended to insure against loss arising principally from the personal, noncommercial  
6 activities of the insured.]

7 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**  
8 **MEANINGS INDICATED.**

9 **(2) (I) “MATERIAL RISK FACTOR” MEANS A RISK FACTOR**  
10 **THAT:**

11 **1. WAS NOT DISCLOSED BY THE INSURED IN AN**  
12 **APPLICATION FOR INSURANCE;**

13 **2. WAS IN EXISTENCE ON THE DATE OF THE**  
14 **APPLICATION; AND**

15 **3. MODIFIES THE PREMIUM CHARGED ON THE**  
16 **POLICY OR BINDER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY**  
17 **RATING INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF**  
18 **THIS ARTICLE.**

19 **(II) “MATERIAL RISK FACTOR” DOES NOT INCLUDE:**

20 **1. INFORMATION THAT CONSTITUTES A MATERIAL**  
21 **MISREPRESENTATION; OR**

22 **2. A CHANGE INITIATED BY AN INSURED, INCLUDING**  
23 **ANY REQUEST BY THE INSURED THAT RESULTS IN A CHANGE IN COVERAGE,**  
24 **DECREASE IN DEDUCTIBLE, OR OTHER CHANGE TO A POLICY.**

25 **(3) “PERSONAL INSURANCE” MEANS PROPERTY INSURANCE OR**  
26 **CASUALTY INSURANCE ISSUED TO AN INDIVIDUAL, TRUST, ESTATE, OR SIMILAR**  
27 **ENTITY THAT IS INTENDED TO INSURE AGAINST LOSS ARISING PRINCIPALLY**  
28 **FROM THE PERSONAL, NONCOMMERCIAL ACTIVITIES OF THE INSURED.**

29 (b) This section applies only to a binder or policy, other than a renewal  
30 policy, of personal insurance, commercial property insurance, and commercial liability  
31 insurance.

1 (c) A binder or policy is subject to a 45-day underwriting period beginning  
2 on the effective date of coverage.

3 (d) (1) An insurer may cancel a binder or policy during the underwriting  
4 period if the risk does not meet the underwriting standards of the insurer.

5 (2) IF THE INSURER DISCOVERS A MATERIAL RISK FACTOR  
6 DURING THE UNDERWRITING PERIOD, THE INSURER SHALL RECALCULATE THE  
7 PREMIUM FOR THE POLICY OR BINDER BASED ON THE MATERIAL RISK FACTOR  
8 AS LONG AS THE RISK CONTINUES TO MEET THE UNDERWRITING STANDARDS OF  
9 THE INSURER IN ACCORDANCE WITH THE RATES AND SUPPLEMENTARY RATING  
10 INFORMATION FILED BY THE INSURER UNDER TITLE 11, SUBTITLE 3 OF THIS  
11 ARTICLE.

12 (3) AN INSURER THAT RECALCULATES A PREMIUM UNDER  
13 PARAGRAPH (2) OF THIS SUBSECTION SHALL PROVIDE NOTICE TO THE INSURED  
14 15 DAYS BEFORE THE PREMIUM INCREASE OR DECREASE TAKES EFFECT THAT  
15 STATES:

16 (I) THE REASON FOR THE INCREASE OR REDUCTION IN THE  
17 PREMIUM; AND

18 (II) THE INSURED'S RIGHT TO TERMINATE THE POLICY IF  
19 THE INSURED DOES NOT CHOOSE TO ACCEPT THE RECALCULATED PREMIUM  
20 EFFECTIVE NOT LESS THAN 15 DAYS AFTER THE INSURER MAILES THE NOTICE  
21 REQUIRED UNDER THIS PARAGRAPH IN ACCORDANCE WITH SUBSECTION (F) OF  
22 THIS SECTION.

23 (e) If applicable, at the time of application or when a binder or policy is  
24 issued, an insurer shall provide written notice of its ability to cancel a binder or policy  
25 OR RECALCULATE THE PREMIUM during the underwriting period.

26 (f) (1) Except as provided in paragraph (2) of this subsection, a notice of  
27 cancellation OR PREMIUM RECALCULATION under this section shall:

28 (i) be in writing;

29 (ii) have an effective date not less than 15 days after mailing;

30 (iii) state clearly and specifically the insurer's actual reason for  
31 the cancellation OR PREMIUM RECALCULATION; [and]

32 (iv) be sent by certificate of mail to the named insured's last  
33 known address; AND

1                   **(V) BE IN DUPLICATE AND ON A FORM APPROVED BY THE**  
2 **COMMISSIONER.**

3                   (2) A notice of cancellation under this section for nonpayment of  
4 premium shall:

5                   (i) be in writing;

6                   (ii) have an effective date of not less than 10 days after mailing;

7                   (iii) state the insurer's intent to cancel for nonpayment of  
8 premium; and

9                   (iv) be sent by certificate of mail to the named insured's last  
10 known address.

11               (g) A binder or other contract for temporary insurance:

12                   (1) may be made orally or in writing; and

13                   (2) except as superseded by the clear and express terms of the binder,  
14 is considered to include:

15                   (i) all the usual terms of the policy as to which the binder was  
16 given; and

17                   (ii) the applicable endorsements designated in the binder.

18               (h) A binder is no longer valid after the policy as to which it was given is  
19 issued.

20               (i) (1) If a binder is given to a consumer borrower to satisfy a lender's  
21 requirement that the borrower obtain property insurance or credit loss insurance as a  
22 condition of making a loan secured by a first mortgage or first deed of trust on an  
23 interest in owner-occupied residential real property, the insurer or its insurance  
24 producer shall include in or with the binder:

25                   (i) the name and address of the insured consumer borrower;

26                   (ii) the name and address of the lender;

27                   (iii) a description of the insured residential real property;

28                   (iv) a provision that the binder may not be canceled within the  
29 term of the binder unless the lender and the insured borrower receive written notice at  
30 least 15 days before the cancellation;

1 (v) except in the case of the renewal of a policy after the closing  
2 of a loan, a paid receipt for the full amount of the applicable premium; and

3 (vi) the amount of coverage.

4 (2) With respect to a binder given under this subsection, an insurer:

5 (i) if the binder is to be canceled, shall give the lender and the  
6 insured consumer borrower at least 15 days' written notice before the cancellation; and

7 (ii) within 45 days after the date the binder was given, shall  
8 issue a policy of insurance or provide the required notice of cancellation of the binder.

9 27-614.

10 (a) In this section, "increase in premium" and "premium increase" include an  
11 increase in total premium for a policy due to:

12 (1) a surcharge;

13 (2) retiering or other reclassification of an insured; or

14 (3) removal or reduction of a discount.

15 (b) (1) This section applies only to private passenger motor vehicle  
16 liability insurance.

17 (2) This section does not apply to the Maryland Automobile Insurance  
18 Fund.

19 **(3) THIS SECTION DOES NOT APPLY TO AN INCREASE IN PREMIUM**  
20 **MADE BY AN INSURER DURING THE 45-DAY UNDERWRITING PERIOD IN**  
21 **ACCORDANCE WITH § 12-106(D)(2) AND (3) AND (F) OF THIS ARTICLE.**

22 (c) (1) Except as provided in paragraph (2) of this subsection, at least 45  
23 days before the effective date of an increase in the total premium for a policy of private  
24 passenger motor vehicle liability insurance, the insurer shall send written notice of the  
25 premium increase to the insured at the last known address of the insured by  
26 certificate of mail.

27 (2) The notice required by paragraph (1) of this subsection need not be  
28 given if the premium increase is part of a general increase in premiums that is filed in  
29 accordance with Title 11 of this article and does not result from a reclassification of  
30 the insured.

1           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
2 policies and contracts of personal insurance, commercial property insurance, and  
3 commercial liability insurance issued, delivered, or renewed in the State on or after  
4 October 1, 2012.

5           SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
6 October 1, 2012.